

MACOMB TOWNSHIP ZONING BOARD OF APPEALS  
MINUTES OF A REGULAR MEETING HELD ON  
JULY 11, 2006  
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LOCATION: MACOMB TOWNSHIP MEETING CHAMBERS  
54111 BROUGHTON ROAD, MACOMB, MI 48042

PRESENT: CHAIRMAN, BRIAN FLORENCE  
MEMBERS: EDWARD GALLAGHER  
NUNZIO PROVENZANO  
VICKI SELVA

ABSENT: DAWN SLOSSON

ALSO PRESENT: COLLEEN OCONNOR, TOWNSHIP ATTORNEY  
JEROME R. SCHMEISER, PLANNING CONSULTANT  
(Additional attendance record on file with Clerk)

Call Meeting to Order.

Chairman FLORENCE called the meeting to order at 7:07 P.M.

1. Roll Call.

Member SELVA called the roll. Member SLOSSON was absent.

2. PLEDGE OF ALLEGIANCE.

3. Approval of Agenda Items. *(with any corrections)*

*Note: All fees have been received and all property owners were notified by mail*

**MOTION by SELVA seconded by GALLAGHER to approve the agenda as presented.**

**MOTION carried.**

4. Approval of the previous meeting minutes:

**MOTION by SELVA seconded by GALLAGHER to approve the meeting minutes of May 9, 2006 as amended.**

**MOTION carried.**

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PURPOSE OF HEARING:

To consider the requests for variance(s) of Zoning Ordinance No. 10 for the following:

Agenda Number/Petitioner/Permanent Parcel No. Zoning Ordinance Section No.

- |      |  |  |
|------|--|--|
| (5)  | Walter D'Aloisio<br>Permanent Parcel 08-17-344-024             | Section 10.0347  |
| (6)  | Walter D'Aloisio<br>Permanent Parcel 08-17-344-025             | Section 10.0347  |
| (7)  | Frank Jonna<br>Permanent Parcel 08-34-300-027<br>08-34-300-028 | Section 10.0323(10)(X)<br>10.1603(B)(29)<br>10.1706(A) |
| (8)  | Christopher Homes, Inc.<br>Permanent Parcel 08-21-127-027      | Section 10.0704(B)(1)                                  |
| (9)  | Dawn and Craig Pomaville<br>Permanent Parcel 08-21-352-007     | Section 10.0339(B)                                     |
| (10) | Total Sports Complex<br>Permanent Parcel 08-18-400-024         | Section 10.2107(B)(2)                                  |
| (11) | Mark Grabow<br>Permanent Parcel 08-04-400-030                  | Section 10.0402  |
5. VARIANCE REQUEST FROM ZONING ORDINANCE;  
Section 10.0347—Request to vary door opening distance from a residential district.  
Unit 24 of Regency Commerce Center; Located on East side of Regency Center Drive, 2000' north of 23 Mile Road; Section 17; Walter D'Aloisio, Petitioner. Permanent Parcel No. 08-17-344-024.

Chairman FLORENCE read the findings and recommendations of July 6, 2006 as follows:

The petitioner is requesting permission to reduce the distance a truck door is planned from a residential district from 600' to 450' (+ or -). The petitioner plans to install sound deadening plastic strips on the door to reduce the sound that may project into the residential area to the east.

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The Township is currently considering an amendment to the zoning ordinance that would provide for sound deadening devices to substitute for the current distance requirement. The petitioner's plan is to provide for the strips as suggested in the ordinance amendment.

**RECOMMENDATION:**

It is recommended that the variance request be approved since the petitioner has provided a sound deadening device that will protect the adjoining residential area.

Al Valentine, representative, was in attendance and presented a brochure of the striping that would be used on the door openings.

Discussion was held on code enforcement issues should the plastic strips that were in place to reduce the noise level were to ever fall, what steps would be taken to ensure their replacement.

Public Portion: None.

**MOTION by GALLAGHER seconded by SELVA to close the public portion.**

**MOTION carried.**

**The following resolution was offered by GALLAGHER and seconded by PROVENZANO:**

**Whereas, it has been satisfactorily presented that special conditions prevail that would cause an unnecessary hardship if the request would be denied, and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;**

**Now, therefore, be it resolved, that the action of the Board is to grant the requested variance of Section 10.0347-Request to vary door opening distance from a residential district; Unit 24 of Regency Commerce Center; Located on East side of Regency Center Drive, 2000' north of 23 Mile Road; Section 17; Walter D'Aloisio, Petitioner. Permanent Parcel No. 08-17-344-024. The variance has been granted since the proposed Zoning Ordinance text amendment change would amend this provision.**

**MOTION carried.**

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6. VARIANCE REQUEST FROM ZONING ORDINANCE;  
Section 10.0347–Request to vary door opening distance from a residential district.  
Unit 25 of Regency Commerce Center; Located on East side of Regency Center Drive, 2000' north of 23 Mile Road; Section 17; Walter D'Aloisio, Petitioner. Permanent Parcel No. 08-17-344-025.

Chairman FLORENCE read the findings and recommendations of July 6, 2006 as follows:

The petitioner is requesting permission to reduce the distance a truck door is planned from a residential district from 600' to 450' (+ or -). The petitioner plans to install sound deadening plastic strips on the door to reduce the sound that may project into the residential area to the east.

The Township is currently considering an amendment to the zoning ordinance that would provide for sound deadening devices to substitute for the current distance requirement. The petitioner's plan is to provide for the strips as suggested in the ordinance amendment.

**RECOMMENDATION:**

It is recommended that the variance request be approved since the petitioner has provided a sound deadening device that will protect the adjoining residential area.

Al Valentine, representative, was in attendance and presented a brochure of the striping that would be used on the door openings.

Discussion was held on code enforcement issues should the plastic strips that were in place to reduce the noise level were to ever fall, what steps would be taken to ensure their replacement.

Public Portion: None.

**MOTION by GALLAGHER seconded by SELVA to close the public portion.**

**MOTION carried.**

**The following resolution was offered by GALLAGHER and seconded by PROVENZANO:**

**Whereas, it has been satisfactorily presented that special conditions prevail that would cause an unnecessary hardship if the request would be denied, and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;**

**Now, therefore, be it resolved, that the action of the Board is to grant the requested variance of Section 10.0347-Request to vary door opening distance from a residential district; Unit 24 of Regency Commerce Center; Located on East side of Regency Center Drive, 2000' north of 23 Mile Road; Section 17; Walter D'Aloisio, Petitioner. Permanent Parcel No. 08-17-344-024. The variance has been granted since the proposed Zoning Ordinance text amendment change would amend this provision.**

**MOTION carried.**

7. VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;  
Section 10.0323A10(X)-Request to allow offstreet parking on the contiguous Home Depot site.  
Section 10.1603B 29-Request to allow the combination of contiguous parcels to form the basis for a "shopping center".  
Section 10.1706A-Request to allow the center to be under one operating and management agreement with Home Depot and above parcels 08-34-300-027 and 08-34-300-028.  
Located on North side of Hall Road, approx. 680' east of Heydenreich;  
Section 34; Frank Jonna, Petitioner. Permanent Parcel No. 08-34-300-027.

Chairman FLORENCE stated a letter of tabling dated July 11, 2006 had been received as follows:

"In regard to the July 11, 2006 Zoning Board of Appeals meeting agenda item #7 for variance from Sections 10.0323A10(X), Section 10.1603B29, and Section 10.1706A, we respectfully request the Zoning Board of Appeals to table this issue until a future date.

We further request a special meeting of the Zoning Board of Appeals to consider the aforementioned Sections. Since attendance at the meeting requires travel from out of town personnel, we respectfully request the meeting to be on Tuesday, July 25, 2006 as the out of town personnel are already scheduled to be in the Detroit area on that date.

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If the Zoning Board of Appeals grants our request for a special meeting, whether July 25, 2006 or some later date, we will deliver the \$1,100.00 special meeting fee upon notification from the Board approving the special meeting."

Bill McPharlin, representative, was in attendance.

Chairman FLORENCE stated that it may not be possible to schedule a July 25, 2006 special meeting.

Member PROVENZANO asked if two weeks would provide a sufficient time to have the petitioner submit all necessary documents.

Jerome R. Schmeiser, Planning Consultant, stated the Township Department Heads are asking to see the proposed revisions and detailed plans prior to any variances being considered by the Zoning Board of Appeals.

**MOTION by GALLAGHER seconded by SELVA to table the variance request of Section 10.0323(A)(10)(X), Section 10.1603(B)(29) and Section 10.1706(A); Located on the north side of Hall Road, approximately 680 feet east of Heydenreich Road; Section 34; Frank Jonna, Petitioner. Permanent Parcel No. 08-34-300-027. The variance was tabled indefinitely in order to have the petitioner provide all materials necessary in order for the Township Department Heads to provide a complete review of the proposal.**

**MOTION carried.**

8. VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;  
Section 10.0704(D)(1)–Request to reduce the side yard projection from 25' to 20.59'.  
Located on South side of 23 Mile Road, 3/4 mile East of Romeo Plank Road; Lot 10 of North Hampton Court; Section 21; Christopher Homes, Inc., Petitioner. Permanent Parcel No. 08-21-127-027.

Chairman FLORENCE read the findings and recommendations of July 6, 2006 as follows:

The petitioner is requesting a variance to allow a side building projection to be reduced as noted above. The lot in question is located in a subdivision that was platted meeting all the lot area requirements of the zoning ordinance.

According to the petitioner the irons in the subdivision were incorrectly installed. The error has caused several homes in the area to be erected that do not meet the requirements of the zoning ordinance.

**RECOMMENDATION:**

It is recommended that the variance request be denied for the following reasons:

1. Compliance with the strict letter of the setback requirement would not unreasonably prevent the ownership from using the property as zoned. Other residential structures planned in Macomb Township will be required to comply with the same setback requirements which are evidence that the proper setback would not be unnecessarily burdensome.
2. The granting of a variance as requested would give to the applicant an advantage or benefit not received by any other property owners in residential developments in Macomb Township. The other owners are or will be required to comply with the setback requirement. As a result the other property owners do not have the opportunity to make use of additional lot areas.

There is nothing unusual about the parcel in question that sets it apart from other parcels in area or in Macomb Township. There is nothing to prevent any part of the setback from being made. For example, there are no significant grade differences or natural feature such as a stream or wetland to prevent full use of the parcel according to the ordinance as written.

The petitioner submitted a letter dated May 5, 2006, in support of the request which was included into the recorded as follows:

"We are asking for a variance of the side building line projection from 25 feet to 20.59 feet. The front yard and side yard setbacks meet the requirements. The houses on 10 and 11 and 10 and 9 have more than 15 feet between them. The home fits within the intent of the neighborhood. Many of the lot irons that exist in this neighborhood are incorrect by up to 2 feet, causing the house on lot 10 to encroach into the side building line projection. Several of the homes in this subdivision do not meet this requirement. Enclosed for your review is a situation survey, a letter from Fazal Khan explaining the situation, copies of the site plans for lots 10, 11 and 12."

Nancy Kolinski, representative, was in attendance and stated the house has already been constructed. She indicated that the irons had been found from which the measurements had been taken to build the house as it exists. But, after the house had been constructed another set of monuments had been found which vary in distance from 2 inches to 2 feet. Lastly, she stated this variance had not been created by them, but that they are being affected by the various circumstances.

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Jerome R. Schmeiser, Planning Consultant, stated that lots on a cul-de-sac are very narrow and that the Township Zoning Ordinance provides that any projection from a house may not sit any closer than 25 feet from the property line.

Discussion was held on the placement of lot irons.

Member GALLAGHER stated the Board was not here to correct others mistakes.

Nancy Kolinski, representative, stated the choices she has in front of her are either to cut a portion of the garage off, appeal to Circuit Court or amend the plat. There is a hardship created by external factors beyond their control.

Colleen O'Connor, Township Attorney, stated that a practical difficulty means that the property can't be used as it is zoned or configured. The issue of having to expend money to tear down a portion of the garage can't be used as a reason for granting an approval. This Board has to say this property couldn't be used for residential purposes.

Nancy Kolinski, representative, asked how does this effect the other four (4) houses already constructed on the cul-de-sac.

Chairman FLORENCE stated that he could not speak for the Township but would assume that some form of action will be taken to remedy this situation.

Public Portion:

Tom Lonczynski, 50786 North Hampton Court, stated he owned Lot 11 which was next door, and stated he felt he had brought this issue to light. He indicated that he paid for a second survey to prove that this house had been built to close to the lot lines. Lastly, everyone has been on this cul-de-sac for nine years and this is the last house to be built.

Members GALLAGHER and PROVENZANO stated that his (Tom Lonczynski) lot was also a non-conforming lot. The only lot that was valid was Lot 8.

**MOTION by SELVA seconded by PROVENZANO to close the public portion.**

**MOTION carried.**

**MOTION by GALLAGHER seconded by PROVENZANO to deny the variance request of Section 10.0704(D)(1)–Request to reduce the side yard projection from 25' to 20.59'; Located on South side of 23 Mile Road, 3/4 mile East of Romeo Plank Road; Lot 10 of North Hampton Court; Section 21; Christopher**



**Homes, Inc., Petitioner. Permanent Parcel No. 08-21-127-027. The variance was denied since there was no practical difficulty, the house could have been built on the property per the ordinance. There is no sufficient grade difference or natural feature such as a stream or wetland to prevent full use of the parcel as intended. Further if the variance were granted the petitioner would have an advantage over other lots with the same features.**

**MOTION carried.**

9. VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;  
Section 10.0339(B)–Request to eliminate pathway across the front of property.  
Located on North side of 22 Mile Road, 300' west of Marseilles Road;  
Section 21; Dawn and Craig Pomaville, Petitioner. Permanent Parcel No. 08-21-352-007.

Chairman FLORENCE read the findings and recommendations of July 6, 2006. They are as follows:

The petitioner is requesting a variance to eliminate the pathway along 22 Mile Road. On September 14, 2005 the petitioner requested and received a variance from the ZBA allowing certain splits on the rear portion of their property. Action was taken by the ZBA granting the variance. One of the conditions of the Board's action was that the pathways were to be constructed along the 22 Mile frontage.

**RECOMMENDATION:**

It is recommended that the variance request be denied.

1. Compliance with the strict letter of the pathway requirement would not unreasonably prevent the ownership from using the property as zoned. Other structures planned in Macomb Township will be required to comply with the same pathway requirements which are evidence that the approved installation of the pathway would not be unnecessarily burdensome.
2. The granting of a variance as requested would give to the applicant an advantage or benefit not received by any other property owners in developments in Macomb Township. The other owners are or will be required to comply with the pathway requirement. As a result the other property owners do not have the opportunity to make use of additional road frontage.

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There is nothing unusual about the parcel in question that sets it apart from other parcels in area or in Macomb Township. There is nothing to prevent any part of the property from being used for the required pathway. For example, there are no significant grade differences or natural feature such as a stream or wetland to prevent full use of the parcel according to the ordinance as written.

A review of this matter with the Township Engineer indicates that a plan could be developed to provide the pathway in accordance with the standards of the Township. It is suggested that the Board advise the petitioner to review the matter with the Township Engineer.

The petitioner submitted a letter dated June 13, 2006 in support of the request and was included into the record as follows:

"The property located at 19199 22 Mile Road was recently split into 3 parcels. In doing so, the existing house was required to meet current zoning ordinances, one of which requires an 8 foot wide asphalt pathway along major road. This is fine for new development, but as highlighted on the site plan, the pathway would come within less than ten feet of the existing dwelling and less than three feet of the existing sidewalk that leads from the porch to the driveway.

I've also provided a photo that gives you a line of sight view from the current pathway to be extended from Middle Creek Estates. Please notice the location of the house east of mine. The porch would have to be removed for the path to continue.

I request that a variance be granted because of the close proximity to the current dwelling which would greatly reduce the resale value of the house.

Also, there is nothing to be gained by extending the path across my property because of the existing house east of mine."

Craig Pomaville, petitioner, was in attendance and stated he could not see how the request was similar to the recent subdivision developments since this house had been constructed more than 50 years ago, which is much closer than any development today. When the current plan was drawn there had been no alternatives given to me at that time for alternative locations of the pathway.

Member SELVA stated that a variance had been granted in 2005 pertaining to the splits and asked what if anything had changed on the property from the granting of the 2005 variance.

Craig Pomaville stated he remembered the issue of sidewalks being addressed but never knew how close in proximity the walkway would be to the house. Also should that requirement been discussed or put in writing I would have accepted it to get the split. This will be an eyesore for the area having a pathway 8 feet wide, which can't continue any further to the east since there is a house on that property, which sits even closer to the road then the one under consideration.

Jerome R. Schmeiser, Planning Consultant, suggested that Craig Pomaville speak to Jim VanTiflin of Spalding DeDecker and Associates, who could help him figure out a location for the proposed pathway. He also indicated that not to have a pathway along major roads would be ludicrous. The Township has gone to great lengths to build pedestrian bridges and pathways for the safety and welfare of the residents.

Craig Pomaville stated he thought it was unsafe to have a sidewalk 10 feet away from the front door of the house that sits on the property. He indicated that he would have had no problem with a 4 foot wide sidewalk 20 feet from the house that would fit with the style of home.

Member SELVA stated how important it was to the Township to have walkways which allow for pedestrian travel.

Public Portion:

Dawn Pomaville, asked if the Township Engineer indicated the pathway could be constructed at 4 foot, would they have to come back the Zoning Board of Appeals.

Chairman FLORENCE stated that if the Township Engineer approved the sidewalk it would not have to come back.

**MOTION by SELVA seconded by GALLAGHER to close the public portion.**

**MOTION carried.**

**MOTION by SELVA seconded by GALLAGHER to deny the variance request of Section 10.0339(B)–Request to eliminate pathway across the front of property; Located on North side of 22 Mile Road, 300' west of Marseilles Road; Section 21; Dawn and Craig Pomaville, Petitioner. Permanent Parcel No. 08-21-352-007. The variance was based upon the prior agreement made in September 2005 and that it is part of Macomb Township Master Plan to have pedestrian pathways along major roads.**

**MOTION carried.**

10. VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;  
Section 10.2107(B)(2)–Request to allow a height of a building to be 85' 2 ½" rather than 35'.  
Located on South side of Leone, East of Quadrate Drive; ½ mile North of 23 Mile Road; Section 18; Total Sports Complex, Petitioner. Permanent Parcel No. 08-18-400-024.

Chairman FLORENCE read the findings and recommendations of July 6, 2006. They are as follows:

The petitioner is requesting allowance to increase the height of a building as noted above. The purpose of the request is to allow the construction of a low intensity recreational use for the property. The parcel is zoned M-1 industrial and located in an area developed or developing for industrial purposes.

If the property were to be developed or reused for industrial purposes a total of 345 parking spaces plus outside storage would be required. The proposal is for only 196 spaces with no outside storage provided. The petitioner has not requested a parking variance to reduce the required amount of parking.

The plans submitted indicate that the property in question measures 709.99' x 823.04' and contains 13.51 acres. Only the rear portion is planned for the recreation buildings and parking areas. A cul-de-sac drive in the center of the site provides access to the recreation buildings to Leone Drive.

No indication is made as to the proposed use of the Leone Drive frontage on either side of the entrance drive other than it will be sodded and irrigated. The future use of the two open spaces on either side of the drive is not shown.

**RECOMMENDATION:**

Community Planning Consultants considers the building which is the subject of the request to be temporary in nature. As noted above in the Findings, the building is planned to be used as an indoor soccer facility. The building's utility appears to be limited for soccer and other field sports such as football, lacrosse, softball and possibly golf. Given that subject parcel is zoned M-1, the proposed use should be considered as either temporary or transitory until an industrial use with a permanent structure can be placed on the parcel subject to all regulations of the M-1 district.

The Planning Commission must make separate independent findings and recommendations relating to the merits of the proposed use on subject site for a

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Special Land Use Permit. The Zoning Board of Appeals' action, if to approve, should not dictate how the Planning Commission decides on the special land use permit.

In order to keep the review process as narrow as possible, it is recommended that the variance for height requirement should be limited to only the structure labeled as "Proposed Dome" in the site drawing prepared by Anderson, Eckstein and Westrick dated June, 2006. It is recommended that the variance should be granted to the structure as presented on sheet numbers A-2 and A-3 on the plans prepared by Frank Salamone, A.I.A. and further subject to the following conditions:

1. The height variance shall apply only to the one dome structure.
2. The building must be placed on site as shown with smallest dimension facing north/south.
3. The development of the site for the proposed soccer facility shall be subject to the approval of a Special Land Use Permit by the Planning Commission.
4. When the dome is removed, the height of any other structure(s) to be placed on the site shall be subject to height limitations of M-1 district.

The petitioner submitted a letter dated June 26, 2006 in support of the request and was included into the record as follows:

"Strict enforcement of Section 10.2107(B)(2) of the Township Zoning Ordinance, relating to the maximum height of a structure in a Light Industrial District (M-1) would cause a undue hardship and practical difficulty, or impossibility, because compliance with the strict letter of the maximum thirty-five (35) foot height requirement would unreasonably prevent the parcel's owner from using the property as zoned. Section 10.2103 provides that buildings and structures permitted as Special Land Uses in Section 10.1903 of the Warehouse District may be erected subject to the approval of the Planning Commission and subject to Special Land Use permit procedures at Section 10.2401.

Section 10.1903 (Special Land Uses permitted) allows baseball (E. Amusement parks, baseball, circuses). One of the uses for the proposed facility is indoor baseball (the other is soccer), which requires a structure height is excess of the maximum thirty-five (35) feet allowed. It it a practical impossibility to have an indoor baseball facility with a maximum height of 35 feet or lower. While the facility we are proposing has a maximum height of 85'-2.5", the average height is considerably lower at approximately 45 feet.

Strict adherence to the letter of the ordinance's height restriction would prove an unnecessary hardship because there is no other zoning category in the

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Ordinance that would allow the construction of an indoor baseball or soccer field with permissible height restrictions, so the Ordinance as written would not allow the building of an otherwise permitted (by Special Land Use) structure anywhere due to its required height.

The granting of a variance as requested would not give Petitioner an advantage or benefit not received by any other property owners in the same zoning district, as they would be able to apply for a Special Land Use under Section 10.1903 and apply for a variance if the permitted use they were seeking required a height in excess of thirty-five (35) feet.

The practical difficulty, or impossibility, or restricting an indoor facility used for baseball, which is a permitted Special Land Use, as well as soccer, to thirty-five (35) feet is that balls would consistently hit the roof, whereas with a structure with a peak height of 85 feet, and average height of 45 feet, balls in play would not hit the facility's roof. The Ordinance allows for Special Land uses including a baseball facility, but if it cannot exceed a maximum height of 35 feet, the permitted use is a practical impossibility.

The purpose behind the proposed development is not to maximize profit, but to provide a low intensity recreational use that would benefit the community as well as the Applicant.

The property as zoned cannot be used for this permitted (Special Land Use) structure due to the height restriction. If the variance was granted the average height of the structure would not exceed the maximum height allowed by ordinance by more than 29%.

The Applicant respectfully requests that the Zoning Board of Appeals grant its application for height variance to allow for a maximum 85'-2.5" structure height, as otherwise it would be an unnecessary hardship and practical difficulty to the Applicant."

Michael D'Agostini, representative, was in attendance.

Colleen O'Connor, Township Attorney, stated that when the request had been reviewed by their office, it had been determined that a Special Land Use Permit would be required even though a sport complex is a permitted use in an M-1 zone, its not an allowable as of right. The first step is to apply for a Special Land Use, otherwise this will not be an acceptable use unless you get permission from the Planning Commission to use the land as a sport complex.

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Michael D'Agostini stated that a similar Special Land Use had been granted to a similar facility which was Premier Training Center.

Colleen O'Connor, Township Attorney, stated the proper procedure is for the petitioner to apply for a Special Land Use then apply for variances.

Michael D'Agostini, stated he could not get a Special Land Use permit or Site Plan approval without having the requested variances granted nor could he build the site without receiving the necessary permits required.

Chairman FLORENCE stated the process that has been laid out and had been used in various cases is that step one is the Special Land Use and step two is the Zoning Board of Appeals. You are asking us to do step two prior to step one. Basically, based on the procedural setup, a more appropriate way to handle this case and what I am suggesting is that you ask for a tabling until such time as the Planning Commission has reviewed the Special Land Use permit request.

Member SELVA stated her concerns with the size of the building and the location of an adjacent residential subdivision. In addition, this proposed building will be twice the size of any industrial building existing in the area. Lastly, she would feel much more comfortable with knowing that all of the residences had been notified and we would be able to receive their feedback on the request being made.

Michael D'Agostini stated that all the residences had been notified by the Township of the proposed requested change. He also stated that the proposed building would be 700 feet away from the nearest residence. Along with that there will be a required 100 foot setback for the properties located on the north of this subdivision which abut residential.

Colleen O'Connor, Township Attorney, stated that the proper step to be taken and would urge the Board members to follow, would be not to vote on something with no Special Land Use granted at this time. They need to have a Special Land Use permit granted to them first from a legal perspective point of view.

Chairman FLORENCE suggested that he request to table the item until the Planning Commission has reviewed the site plan proposal.

Colleen O'Connor, Township Attorney, stated the vote for a variance has to be based on a practical difficulty, which there is not one here. There is no approval given to the project. This Board has to act in a legal fashion. In order to grant a variance they have to establish a practical difficulty. You don't have permission to use your property as you are arguing. If you are denied here tonight, you don't

have the right to come back and ask for the variance again.

Michael D'Agostini, asked for a tabling of the item.

**MOTION by GALLAGHER seconded by SELVA to table the variance as requested by the petitioner of Section 10.2107(B)2-Request to allow a height of a Building to be 85'2 ½" rather than 35'; Located on the south side of Leone Drive, east of Quadrate Drive, north side of 23 Mile Road; Total Sports Complex, Petitioner. Permanent Parcel No. 08-18-400-024. The item is tabled to September 12, 2006.**

Jerome R. Schmeiser, Planning Consultant, asked to table the variance request indefinitely.

**MOTION by Member GALLAGHER and seconded by SELVA to change their above motion to read the item is tabled indefinitely.**

**MOTION carried.**

11. VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;  
Section 10.0402-Request to allow the use of an AG zone for a limousine service.  
Located on North side of 25 Mile Road, 1/4 mile west of Broughton Road;  
Section 4; Mark Grabow, Petitioner. Permanent Parcel No. 08-04-400-030.

Chairman FLORENCE read the letter of request dated July 11, 2006 to table the item to September 12, 2006.

**MOTION by GALLAGHER seconded by SELVA to table the Variance of Section 10.0402-Request to allow the use of an AG zone for a limousine service; Located on North side of 25 Mile Road, 1/4 mile west of Broughton Road; Section 4; Mark Grabow, Petitioner. Permanent Parcel No. 08- 04-400-030. This item is tabled to September 12, 2006.**

**MOTION carried.**

12. OLD BUSINESS

None.

13. NEW BUSINESS

None.



MACOMB TOWNSHIP ZONING BOARD OF APPEALS  
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14. PLANNING CONSULTANTS COMMENTS

None.

15. MOTION TO RECEIVE AND FILE ALL CORRESPONDENCE IN  
CONNECTION WITH THIS AGENDA.

**MOTION by SELVA seconded by PROVENZANO to receive and file all  
correspondence.**

**MOTION carried.**

ADJOURNMENT

**MOTION by SELVA seconded by PROVENZANO to adjourn the meeting at  
8:43 P.M.**

**MOTION carried.**

Respectfully submitted,

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Brian Florence, Chairman

Beckie Kavanagh, Recording Secretary

BK